

1 LENARD E. SCHWARTZER
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4 TRUSTEE
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8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF NEVADA**

10 In re) Case No. BK-S 20-10752 ABL
11 JIMENEZ ARMS, INC.,) IN PROCEEDINGS UNDER CHAPTER 7
12)) APPLICATION FOR APPROVAL OF
13) PAYMENT OF AN ADMINISTRATIVE
14) EXPENSE TO HEALTHY TECHNOLOGY
15) SOLUTIONS LLC IN THE AMOUNT OF
16) \$1,063.75
Debtor.)) Date: September 17, 2020
) Time: 11:00 a.m.
) Place: Foley Bldg., Third Floor

17
18 LENARD E. SCHWARTZER, Chapter 7 Trustee (the "Trustee"), files this Application for
19 Approval of Payment of an Administrative Expenses to HEALTHY TECHNOLOGY SOLUTIONS LLC
20 ("HTS") in the Amount of \$1,063.75(the "Application"). This Application is brought pursuant to 11
21 U.S.C §503(b), and supported by the Points and Authorities set forth herein, the pleadings on file of
22 which the Trustee respectfully requests that this Court take judicial notice, and any argument
23 entertained at the hearing on this matter.

24 The Trustee seeks authorization, pursuant to 11 U.S.C. §503(b), to pay an administrative
25 expense in the amount of \$1,063.75 to HTS. The administrative expense was incurred and expended
26 by the bankruptcy estate for services rendered by HTS in recovering data from the Debtor's
27 computers which had been turned over to Nellis Auction.

28

JURISDICTION

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§1408 and 1409.

BACKGROUND FACTS

1. This case was commenced February 10, 2020, by the filing of a voluntary Chapter 7 petition.

2. The undersigned is the duly appointed and acting Chapter 7 Trustee.

9 3. During a meeting of creditors, the principal of Debtor advised the Trustee that he had
10 turned over the Debtor's computers to Nellis Auction after deleting all information contained on the
11 computers.

12 4. The Trustee directed his staff to contact HTS to arrange to go to Nellis Auction, pick
13 up the server and 5 PCs, and recover the information contained therein.

14 5. The estate paid HTS \$1,063.75 for the services performed for the estate. A copy of
15 HTS's invoice is attached hereto, marked Exhibit "1" and incorporated herein by reference.

16 6. In the Trustee's business judgment, the administrative expense incurred was actual,
17 necessary costs and expenses to preserve the estate.

MEMORANDUM OF LAW

19 Allowance of administrative expenses is set forth in 11 U.S.C. §503. Section 503(b)
20 provides in part:

"(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including

(1)(A) the actual, necessary costs and expenses of preserving the estate including --

(i) wages, salaries, and commissions for services rendered after the commencement of the case"

26 Section 507(a)(2) accords administrative expenses of a bankruptcy estate second priority.
27 Section 503(b)(1)(A) states that administrative expenses include "the actual, necessary costs and
28 expenses of preserving the estate including . . ." and then lists specific categories. Under § 102(3)

1 "includes" and "including" are not limiting. Therefore, the use of "including" in the preamble of
 2 § 503(b)(1)(A) means that actual and necessary costs and expenses of preserving the estate may
 3 include types of claims other than those listed under § 503(b)(1)(A) which may be given
 4 administrative priority.

5 *In re 800Ideas.com, Inc.*, 496 B.R. 165, 175 (B.A.P. 9th Cir. 2013). See e.g., *Matter of*
 6 *TransAmerican Nat. Gas Corp.*, 978 F.2d 1409, 1420 (5th Cir. 1992) ("the purpose of the priority
 7 treatment afforded by § 503 is to encourage third parties to provide necessary goods and services to
 8 the debtor-in-possession so that it can continue to conduct its business, thus generating funds from
 9 which prepetition creditors can be paid.") *In re J.A.V. Ag., Inc.*, 154 B.R. 923, 930 (Bankr. W.D.
 10 Tex. 1993) (the costs of truck repair were appropriately classified as administrative priority since the
 11 costs contributed to the preservation of assets of the estate).

12 The administrative expense incurred by the bankruptcy estate to preserve the estate was
 13 actual, necessary costs and expenses allowable pursuant to 11 U.S.C. §503(b).

14 **REQUEST FOR RELIEF**

15 The Trustee respectfully requests that the Court enter an order granting this Application and
 16 allowing and authorizing the payment of \$1,063.75 to HEALTHY TECHNOLOGY SOLUTIONS
 17 LLC as an allowed administrative expense of this bankruptcy estate, and for such other relief as is
 18 just and proper.

19
 20 Dated: August 10, 2020



LENARD E. SCHWARTZER
Trustee

22 **DECLARATION OF TRUSTEE**

23 I declare, under penalty of perjury, that the foregoing is true and correct, to the best of my
 24 knowledge, information and belief.

25
 26 Dated: August 10, 2020



LENARD E. SCHWARTZER

EXHIBIT "1"

Healthy Technology Solutions LLC.
2251 N Rampart Blvd., #375
Las Vegas, NV 89128
(702) 553-3200



Bill To:
Lenard Schwartzer, Trustee
Attn: Angela Hosey
2850 S. Jones Boulevard, Suite 1
Las Vegas, 89146-5308

Date	Las Vegas Office
07/14/2020	206694
Account	
Schwartzer McPherson	

Terms	Due Date	PO Number	Reference
Net 30 days	08/13/2020		

Services	Work Type	Staff	Hours	Rate	Amount
<u>Agreement Billable Time: S&M Law Silver + Storagecraft</u>					
System Engineer	Onsite	Jeffrey Stuhr	2.25	115.00	258.75
System Engineer	Remote Support	Jeffrey Stuhr	0.25/7.00	0.00/115.00	833.75
					Total Services: 1,063.75
Agreement Adjustments		Quantity	Amount		
<u>Covered by Agreement: S&M Law Silver + Storagecraft</u>					
Services		(.25)	0.00		
					Total Agreement Adjustments: -28.75
Make checks payable to Healthy Technology Solutions LLC.			Invoice Subtotal:	1,063.75	
			State Sales Tax:	0.00	
			Invoice Total:	1,063.75	
			Payments:	0.00	
			Credits:	0.00	
			Balance Due:	1,063.75	

✓ Thank You For Your Business!

Exhibit 1"

Invoice Time Detail

Invoice Number: 206694
Company: Schwartzer & McPherson Law Firm

Member: Stuhr, Jeffrey Date: 5/11/2020

Staff	Notes	Bill	Hours	Rate	Ext Amt
Stuhr, Jeffrey	<p>Contact:Hosey, Angela</p> <p>Went to Nellis Auctions and picked up server and 5 PCs out of 3 carts full of items, brought back to office and reached out to S&M to see if they had credentials for the devices.</p> <p>Includes travel time.</p>	Y	2.75	115.00	316.25

Subtotal: 316.25**Member: Stuhr, Jeffrey Date: 5/12/2020**

Staff	Notes	Bill	Hours	Rate	Ext Amt
Stuhr, Jeffrey	<p>Contact:Hosey, Angela</p> <p>Password Bill gave did not work. Was able to access all PCs and server data and started transferring to external drive, then began process of uploading to OneDrive.</p>	Y	2.00	115.00	230.00

Subtotal: 230.00**Member: Stuhr, Jeffrey Date: 5/21/2020**

Staff	Notes	Bill	Hours	Rate	Ext Amt
Stuhr, Jeffrey	<p>Contact:Hosey, Angela</p> <p>I will get right on giving everyone access. At any point you may choose to download the files and host them elsewhere, but if you wish for others to access the files from our onedrive, we will need to be contacted and send them a link.</p>	Y	0.25	115.00	28.75
Stuhr, Jeffrey	<p>Contact:Hosey, Angela</p> <p>Trimmed files due to OneDrive folder limitations and make password links to each directory from OneDrive, email sent out with links to</p> <p>Lenard Schwartzer, Trustee Trustee@s-mlaw.com William Holland WHolland2@aol.com Jason Imes JImes@s-mlaw.com Angela Hosey AFHosey@s-mlaw.com</p>	Y	2.25	115.00	258.75

Subtotal: 287.50**Member: Stuhr, Jeffrey Date: 6/2/2020**

Staff	Notes	Bill	Hours	Rate	Ext Amt
Stuhr, Jeffrey	<p>Contact:Hosey, Angela</p> <p>Dropped off the equipment at Nellis</p>	Y	2.25	115.00	258.75

Auctions today. Includes travel time.

Subtotal: 258.75

Invoice Time Total:

Billable Hours:

9.50